

REMARKS

Applicant respectfully requests reconsideration and allowance of claims 1, 3, and 6-20, which are pending in the above-identified application. Claims 1, 3, 4, 7, 8, 10-13, and 15 stand rejected. Claims 9 and 16-20 stand allowed. Applicant has cancelled claims 4-5, and has amended claims 1, 6, and 7 herein. No new matter is added by the amendments. In view of the following discussion, Applicant submits that all pending claims are in condition for allowance.

Allowable Subject Matter and Objection of Claims 4 and 6:

Applicant respectfully acknowledges that the Examiner has allowed claims 9 and 16-20 at numbered part 15 of the Office Action. The Examiner has objected to claims 5, 6, and 14 as being dependent upon a rejected base claim, but stated that claims 5, 6, and 14 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicant has amended independent claims 1 and 7 to include the allowable subject matter of claim 5 and the subject matter of intervening claim 4. Applicant has amended claim 6 to depend from amended independent claim 1. As claim 6 depends from amendment independent claim 1, and claim 14 depends from amended independent claim 7, Applicant submits that the aforementioned claim objections have been overcome. Accordingly, Applicant respectfully requests that the Examiner allow the instant application.

Interview Summary:

The undersigned respectfully acknowledges and thanks the Examiner for the courtesies extended during the in-person interview on March 3, 2009. In accordance with MPEP §713.04, Applicant submits the substance of the interview herein. Participants included Examiner Nihir Patel, and Applicant's representatives Matthew Dernier, and Jonathan Doloff. No exhibit was shown or demonstration conducted. Participants discussed independent claims 1 and 7 of the instant application. Participants discussed Pui et al. (U.S. Pat. No. 6,764,720, hereinafter referred to as

“Pui”). Based on the discussion as mentioned herein below, Applicant’s representatives and Examiner Patel agreed that independent claims 1 and 7 of the instant application recite structural limitations that distinguish the subject independent claims from the cited prior art.

At the beginning of the interview, Applicant’s representatives Jonathan Doloff and Matthew Dernier explained the structure and functionality of the present invention of the instant application to distinguish the present invention as recited in independent claims 1 and 7 from the cited prior art. Specifically, Pui is silent on a nozzle including the microstructures and/or nanostructures as recited in independent claims 1 and 7 of the instant application. From FIG. 1 and col. 6, lines 45-65, Pui only discloses nanoparticles (e.g., pharmaceuticals, medicines, etc.) that are being sprayed from the Pui device. Indeed, FIG. 1 and col. 6, lines 45-65, as cited by the Examiner, do not disclose or suggest the structure as recited in independent claims 1 and 7 of the instant application. Applicant’s representatives submitted that no portion of Pui discloses or suggests at least one of elevation and/or depression microstructures and elevation and/or depression nanostructures as recited in independent claims 1 and 7 of the instant application. Examiner Patel agreed with Applicant’s representatives as to the deficiencies of Pui.

Claim Rejections under 35 U.S.C. §102:

At numbered parts 3-14, the Examiner has rejected claims 1, 3, 4, 7, 8, 10-13, and 15 under 35 U.S.C. §102(e) as being anticipated by Pui et al. (U.S. Pat. No. 6,764,720)(hereinafter referred to as “Pui”). Applicant respectfully traverses this rejection. Applicant has cancelled claims 4-5, and has amended independent claims 1 and 7 of the instant application to recite the allowable subject matter of claims 4 and 5. As such, Applicant submits that amended independent claims 1 and 7 of the instant application are patentable. As claims 3, 8, 10-13, and 15 depend from amended independent claims 1 and 7, respectively, and recite additional patentable features, the subject dependent claims are, therefore, likewise patentable. Accordingly, Applicant submits that claims 1, 3, 7, 8 and 10-13, and 15 are in condition for allowance, and Applicant respectfully requests that the

Examiner's §102 claim rejections be withdrawn.

Conclusion:

Applicant therefore respectfully requests reconsideration and allowance in view of the above remarks and amendments. In the event there are any fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

Respectfully submitted,

Dated: March 19, 2009


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I-1448_Amendment-to-DA_12-24-2008